

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KELSEY MARIE SINGH
MAHAL, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

AMANDEEP S. MAHAL,

Respondent-Appellant.

UNPUBLISHED

June 14, 2007

No. 274549

Dickinson Circuit Court

Family Division

LC No. 06-000512-NA

Before: Kelly, P.J., and Markey and Smolenski, JJ.

PER CURIAM.

Respondent appeals by right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(e), (g), and (j). We affirm.

Kelsey was placed in guardianship with Jennifer Koehler of Iron Mountain in January 2004, when Kelsey was not quite two years old. Respondent was divorced and signed a waiver of guardianship. Shortly after being placed in guardianship, Kelsey was diagnosed with epilepsy and began having seizures. She later showed symptoms of attention deficit hyperactivity disorder, oppositional defiant disorder, anxiety disorder, and possible emergent bipolar disorder and posttraumatic stress disorder. Respondent, who lived in Milwaukee and drove a cab, sought to terminate the guardianship in July 2004. The court denied the motion after a hearing, and a court-structured reintegration plan was drafted in September 2004. The plan required respondent to regularly visit and telephone, attend parenting classes, and pay child support for Kelsey. Respondent testified that he worked at least 70 hours a week and proposed to have ex-wife Heidi Zubair, Kelsey's biological mother, care for Kelsey while he worked. However, Ms. Zubair later delivered a child born addicted to barbiturates and opiates. Meanwhile, Kelsey continued in guardianship with the Koehlers. At first, respondent and the Koehlers cooperated well and respondent visited twice a month and called regularly. As time went on, though, respondent's visitations and phone calls lessened, and his relationship with Jennifer Koehler deteriorated. Respondent believed that Ms. Koehler was deliberately not answering her phone and manipulating Kelsey's conversations with him, while Ms. Koehler thought respondent was planning to take Kelsey to India without court permission.

In March and July 2005, the court entered orders modifying the reintegration plan to allow respondent more flexible and frequent visitations. Respondent had testified that his work and economic needs were keeping him from visiting more often. Even with the new schedule, respondent visited and called less. He failed to take advantage of weeklong visitations. The court found unconvincing his testimony that he was too busy working, obtaining his citizenship, and trying to bring his new wife back from India. Respondent could have stayed with his ex-mother-in-law in Florence, Wisconsin (close to Iron Mountain), to minimize expenses visiting Kelsey. Kelsey was seeing a counselor to cope with her difficulties, and in April 2006, she began treating with a psychiatrist.

A petition was filed to take jurisdiction and terminate respondent's and Ms. Zubair's parental rights to Kelsey in May 2006. Respondent was then in India, and he had not seen Kelsey since January 2006. Following a trial in September 2006, the jury found that one or more of the statutory grounds alleged in the petition had been proved. MCR 3.972(E). At trial, Kelsey's psychiatrist, Dr. VanHolla, testified that he had no contact from respondent and that moving Kelsey from the stable environment with the Koehlers would be disruptive. Following the jury verdict, a supplemental petition was filed to terminate parental rights and a hearing was held in November 2006. Also in November, Ms. Zubair released her parental rights to Kelsey.

Respondent argues that the trial court clearly erred in terminating his parental rights to Kelsey, because clear and convincing evidence did not satisfy the statutory grounds in MCL 712A.19b(3)(g). We disagree, and also find sufficient evidence under subsections (e) and (j), although only one subsection need be satisfied to terminate parental rights. *In re Trejo*, 462 Mich 341, 350; 612NW2d 407 (2000). As in *In re BZ*, 264 Mich App 286, 300; 690 NW2d 505 (2004), respondent "only minimally complied with the more important aspects of the [reintegration] plan, including visitation." While respondent clearly loved Kelsey and wanted to be a good parent, his failure, without good cause, to call or visit more often resulted in a lessening of her attachment to respondent. As the trial court noted, respondent's actions spoke louder than his words in showing his true priorities. Respondent made three lengthy trips to India during the pendency of the case. He also did not regularly support Kelsey or comply with the court's other reasonable requirements, such as parenting classes and inquiring into Kelsey's school, day care, and medical issues, until late in the case. He even admitted that he would not have been able to properly care for Kelsey until August 2006, when his second wife and mother came from India. Regardless of his responsibilities to other family members, respondent's first priority should have been Kelsey and his relationship with her. When given the chance to have increased contact with Kelsey, he visited and called less. We find no clear error in the trial court's determination that emotional harm to Kelsey would have resulted from returning her to respondent's home. Clear and convincing evidence supported termination of respondent's parental rights under subsections (e), (g), and (j), and termination was not clearly contrary to Kelsey's best interests. MCL 712A.19b(5); MCR 3.977; *In re Trejo*, *supra* at 353-355.

We affirm.

/s/ Kirsten Frank Kelly
/s/ Jane E. Markey
/s/ Michael R. Smolenski